

**DEVELOPMENT CONTROL AND REGULATORY BOARD****10th OCTOBER 2019****REPORT OF THE CHIEF EXECUTIVE****COUNTY MATTER****PART A – SUMMARY REPORT**

APP.NO. & DATE: 2019/0994/07 (2019/CM/0113/LCC) – 14th May 2019

PROPOSAL: Revised restoration of quarry workings utilising the importation of suitable inert material to achieve a beneficial afteruse of the site.

LOCATION: Ibstock Brick Ltd, Leicester Road, Ibstock, LE67 6HS

APPLICANT: Mick George Ltd.

MAIN ISSUES: The effects of the development upon air quality, ecology, hydrology and flood risk, landscape, noise, public rights of way, restoration and aftercare, traffic, the contribution of the proposal to the County's waste management infrastructure, and the appropriateness of the location.

RECOMMENDATION: PERMIT subject to the conditions as set out in the appendix to the main report.

Circulation Under the Local Issues Alert Procedure

Mr. D. Harrison, CC.

Officer to Contact

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PART B – MAIN REPORT

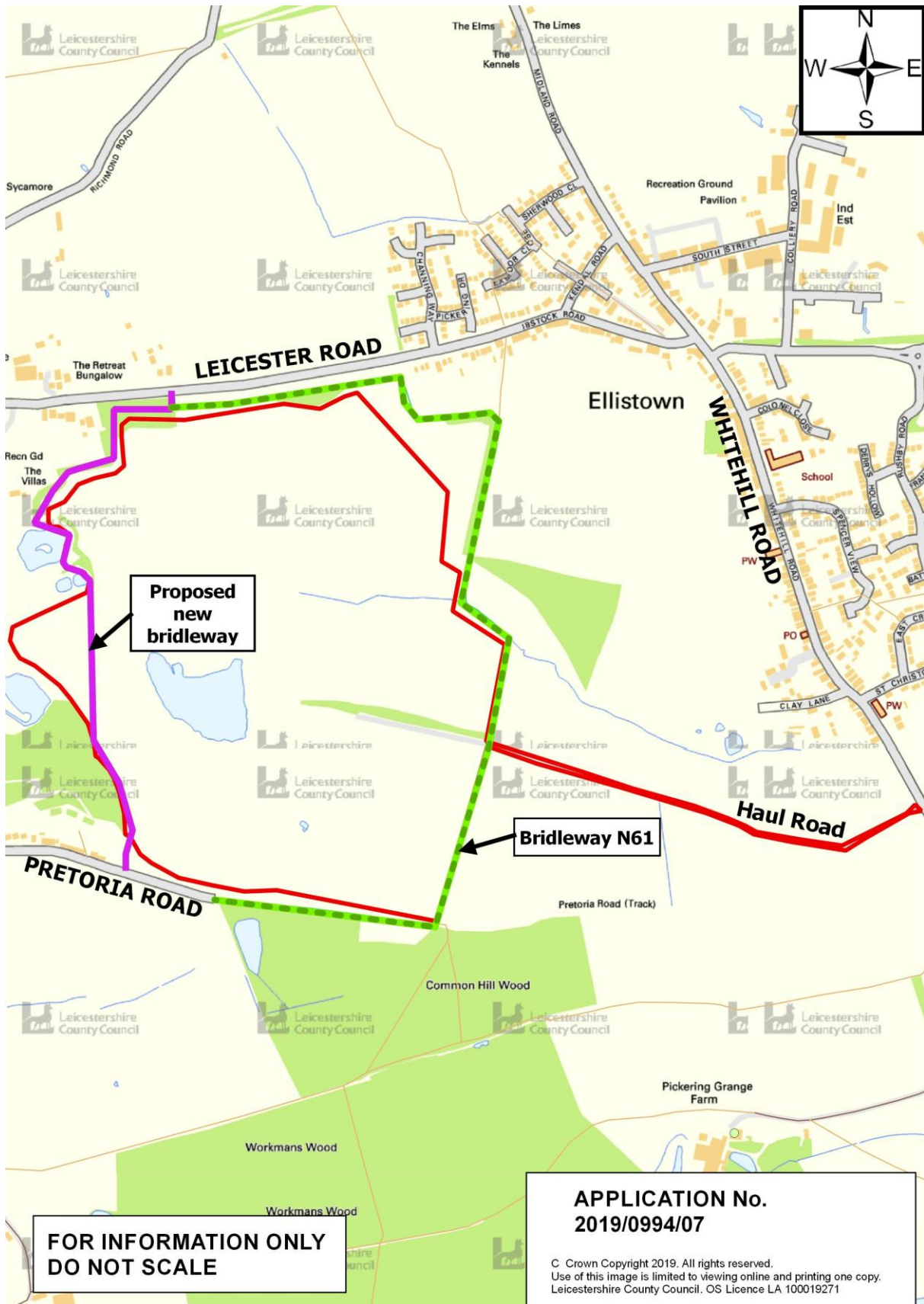
Description of site

1. Ibstock Quarry (or as the applicant refers to it Leicester Quarry) lies immediately north east of Ibstock and west of Ellistown, and approximately 1.5 kilometres south of Coalville. Planning permission for the extraction of clay at Ibstock was first granted in 1947 under an Interim Development Order (IDO). Further planning permissions for clay extraction were granted in 1951, 1957, 1958 and 1968. In 1998 the operator submitted an application for the consolidation of the existing planning permissions for clay extraction and the extension of the quarry east and north east of the original quarry, i.e. towards Ellistown. This application was granted in 1999.
2. More recently this 1999 planning permission, alongside other ancillary permissions was reviewed in 2015 and a schedule of 57 conditions now controls the mineral extraction operations at Ibstock Quarry (reference 2015/0262/07). The schedule of new conditions for Ibstock Quarry allows the extraction of clay until 28th February 2059 and for site restoration to be completed by 28th February 2061. The current, approved, restoration of the site is to take place without the importation of material and thus is a large water body with peripheral woodland, arable agricultural and species rich grassland. Provision was put in place for the protection of the existing vegetation, new public rights of way, and, importantly, limits on noise from the operations and dust mitigation.
3. Residential properties are adjacent to the current extraction to the north-east, north-west and south-west, on Leicester Road and Pretoria Road. However, these are well screened from the operations by mature vegetation and the existing topography. To the west of the quarry are the brickworks and Ibstock's head offices and the remainder of the quarry is surrounded by agricultural land. Public bridleway N61 runs along the northern and eastern boundary of the quarry and public bridleway N101 runs to the south, forming part of Pretoria Road. The site is located within the boundary of the National Forest.

Description of Proposal

4. The proposal is by Mick George Ltd. to infill the current quarry void and then to progressively restore the remainder following extraction of the brick clay. The application area is 54.95 hectares in size and remains in the ownership of Ibstock Brick Ltd. and they will continue to extract clay and operate the adjacent brickworks. The intention is to start infilling at the south western end of the site and to work northwards towards Leicester Road, then go east and then south. In effect, the infilling would follow the extraction of the clay.

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5. The application states that the restoration of Ibstock Quarry is currently permitted to end by February 2061 but that this proposal, if permitted, would extend the restoration period by six years. However, the application predicts that by 2061 over 90% of the site will have been restored to the new levels contained within this application. Only inert material will be utilised in the infilling and it is anticipated that some 250,000m³ of inert material will be imported per annum, equating to a maximum throughput of 450,000tpa. The application states that 14 full time employees would be employed as a result of the development. The application contains an environmental statement which covers hydrology, landscape, noise, and traffic. Other matters such as dust suppression, lighting and restoration are also addressed in the planning application.

Hydrology

6. The site lies within Flood Zone 1 (land with less than a 1 in 1,000 annual probability of river flooding). Water from the site will continue to flow overland to Ibstock Brook that runs around the northern side of the site. The wetland areas proposed in the scheme will be used to ensure drainage is at greenfield runoff rates.

Landscape

7. The landscape and visual appraisal states that the site lies within the Leicestershire and Derbyshire Coalfield National Character Area and the site is heavily degraded by historic and ongoing mineral extraction operations. The site is not readily visible from adjacent residential areas and the existing trees and hedgerow around the quarry are valuable landscape elements which should be retained. However, open views would be available from the public rights of way around the site. The sensitivity of these areas is classed as high but the magnitude of change low because of the disturbance to be caused by the permitted mineral extraction. The proposed restoration provides for 23.7 hectares of woodland, 15 hectares of neutral grassland, 12.8 hectares of agricultural land and a series of wetland areas.

Noise

8. The noise assessment assesses the existing noise climate and the proposed noise levels which would be experienced at the nearest noise sensitive properties, the noise controls set by condition 24 of consent 2015/0262/07 are used as the starting point of the assessment. The predictions are that the cumulative noise impact of the mineral extraction and these proposed infilling operations could take place within the limits already set on the current mineral extraction consent. However, this is subject to appropriate on-site controls such as 'white noise' reversing alarms being utilised to reduce the potential for disturbance. Furthermore, to mitigate noise experienced at properties on Pretoria Road nearest to the development it is proposed that an acoustic fence is erected. The proposed hours of operation are 07:00-19:00 Monday to Friday and 07:00-14:00 on Saturdays.

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Traffic

9. HGVs would enter and exit the site via the existing access off Ellistown Terrace Road making their way upon Victoria Road (B585). This access has been purpose built to accept HGVs and provides for the movement of clay from Ibstock Quarry to the Ellistown Brickworks. Assuming a rate of 250,000m³ of inert material being imported into the site per annum this would equate to some 120 loads a day (240 movements). With the above proposed hours of operation this would be around 20 movements each hour – one HGV in to the site every 6 minutes. A wheelwash would be installed within the site to ensure mud and detritus is not taken on to the highway. The existing haul road is a single lane but has passing bays provided along its length. The proposal also includes provision of 20 car parking spaces, 10 HGV parking spaces, and a weighbridge.

Additional Information

10. As a result of consultation on the original planning application additional information was supplied addressing the matters of hydrology and the highway.

Planning Policy

Local

11. The relevant local development plan policies are contained within the Leicestershire Minerals and Waste Local Plan (adopted September 2019) and the North West Leicestershire Local Plan (adopted November 2017).

Leicestershire Minerals and Waste Local Plan

- *Policy W1: Waste Management Capacity.*
- *Policy W4: Non-strategic Waste Facilities.*
- *Policy W5: Locating Waste Facilities.*
- *Policy W8: Waste Disposal.*
- *Policy DM1: Sustainable Development.*
- *Policy DM2: Local Environment and Community Protection.*
- *Policy DM3: Strategic Green Infrastructure.*
- *Policy DM5: Landscape Impact.*
- *Policy DM6: Soils.*
- *Policy DM7: Sites of Biodiversity/Geodiversity Interest.*
- *Policy DM9: Transportation by Road.*

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- *Policy DM10: Public Rights of Way.*
- *Policy DM11: Cumulative Impact.*
- *Policy DM12: Restoration, Aftercare and After-use.*

North West Leicestershire Local Plan

- *Policy S3: Countryside.*
- *Policy D2: Amenity.*
- *Policy IF4: Transport infrastructure and new development.*
- *Policy IF7: Parking provision and new development.*
- *Policy En1: Nature Conservation.*
- *Policy En3: The National Forest.*
- *Policy Cc2: Flood Risk.*

National Guidance

12. The revised National Planning Policy Framework (NPPF) was published 19 February 2019 and sets out the Government's planning policies for England. The NPPF does not contain specific policies on waste. At the heart of the NPPF is a presumption in favour of sustainable development, namely the economic, social and environmental roles, and the need to balance economic growth with the protection and enhancement of the environment (including the minimisation of waste and pollution). The NPPF sets out that decisions should provide for a net gain to biodiversity.
13. The National Planning Policy for Waste published in October 2014 and the Waste Management Plan for England published December 2013 set out the Government's ambition to work towards a more sustainable and efficient use of waste and the desire to move the management of waste up the waste hierarchy.

Consultations

East Midlands Airport

14. No objection subject to the addition of a condition.

Environment Agency

15. No objection.

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Highway Authority – Leicestershire County Council

16. The Local Highway Authority does not consider that the application as submitted fully assesses the highway impact of the proposed development and further information is required. Without this information the Local Highway Authority is unable to provide final highway advice on this application.

Lead Local Flood Authority

17. The Lead Local Flood Authority (LLFA) advises the Local Planning Authority (LPA) that the application documents as submitted are insufficient for the LLFA to provide a substantive response at this stage.

North West Leicestershire District Council – Environmental Health

18. No response received.

North West Leicestershire District Council - Planning

19. No objection.

Natural England

20. No objection.

Western Power

21. No response received.

Archaeological Advice

22. No response received.

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Ecological Advice

23. No objection in principle to the revised restoration plan – the grassland and woodland mosaic is potentially a good outcome for biodiversity. It is recommended that reconsideration is undertaken of the aftercare and long-term management arrangements, the creation of species-rich grassland, and management of soils in the grassland areas.

Landscape Advice

24. The agricultural field patterns should be more in keeping with the existing field patterns of the area. The replacement of the larger scale lake shown on the previous restoration plan with the smaller shallow wetlands will provide more opportunity for diverse habitat creation. The long-term management of the site is crucial. A plan should be provided which shows existing hedgerows and trees which are to be retained and reference to measures taken to ensure their protection. *Populus nigra* (Black Poplar) and *Thuja plicata* (Western Red Cedar) are inappropriate species to include in the proposed mixes.

National Forest Company

25. The restoration scheme is considered to have adopted an appropriate approach. The restoration scheme has been designed to ensure the proposed woodland block provides connectivity between Battram Woods to the south and isolated small woodlands around the existing clay pit. The scheme also includes wet woodland creation which is a priority habitat for the National Forest. Conditions should be imposed requiring a detailed restoration scheme, a management plan for a ten-year period post planting, details on phased restoration, early planting and management of the bridleway crossing.

Public Rights of Way Advice

26. The proposed HGV access, with 240 HGV movements to the site each day, will have a significant impact on Public Bridleway N61. Further information is required on what measures will be in place to protect the safety of users and amenity of the bridleway during the restoration period. Details regarding any proposed surfacing, signage, access barriers, fencing and adjacent planting for the new bridleway should be discussed and agreed with Leicestershire County Council, as Highway Authority, before the bridleway is created.

Ellistown & Battleflat Parish Council

27. No response received.

Ibstock Parish Council

28. No response received.

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Consultation Responses on Additional Information

East Midlands Airport

29. No objection subject to the addition of a condition.

Environment Agency

30. No further comments.

Highway Authority – Leicestershire County Council

31. The impacts of the development are acceptable and when considered cumulatively with other developments the impacts on the road network are not considered severe. A traffic signals scheme is planned for this financial year at the Ellistown Terrace Road and Victoria Road junction. With these works and the predicted HGV movements from this development the junction would have spare capacity. The response also contains the comments from Public Rights of Way who advise that a condition should be attached seeking the details of the signs to be erected where the haul road crosses bridleway N61.

Lead Local Flood Authority

32. The proposal is acceptable subject to two conditions on surface water drainage.

Natural England

33. No comment on the application.

North West Leicestershire District Council - Planning

34. No objection.

Ecological Advice

35. No further comments.

National Forest Company

36. Original comments still stand. Maintenance of woodland should be for ten years.

Landscape Advice

37. No further comments.

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Publicity

38. The proposal has been advertised by neighbour letters dated 22nd May 2019 and 31st July 2019, site notices posted on 28th May 2019 and 1st August 2019, and notices in a local newspaper published on 24th May 2019 and 9th August 2019. Five representations have been received.

Representations

39. The representations raise concerns regarding the environmental impacts of the proposal on air quality, dust, light pollution, noise and traffic. There have also been suggestions that speedbumps should be put on the access road where the bridleway crosses it and that the site could be used as an off-road track.

Assessment of Proposal

40. The application should be determined in accordance with the development plan unless material considerations dictate otherwise. In this instance, the main issues for consideration of this application relate to effects upon air quality, ecology, hydrology and flood risk, landscape, noise, public rights of way, restoration and aftercare, traffic, the contribution of the proposal to the County's waste management infrastructure, and the appropriateness of the location. The environmental statement, including the additional information, covers all the main issues of the proposal to a level sufficient to enable a decision to be made on the proposal.

General Location and Policy

41. One of the aims of the Minerals and Waste Local Plan is to direct new waste developments to specific areas of the County and to suitable priority locations. Given the type of operations proposed the site does not meet the criteria of a 'strategic' site and, therefore, Policy W4 is the starting point for assessing its suitability in terms of location. The site is upon a greenfield site (due to the site's approved restoration requirements) in the countryside. Policy W4 sets out that some types of facilities cannot be readily located in the priority locations, the landfilling of waste is one of these types of facilities.
42. Policy W5 lists those types of land to be considered for locating new waste sites. Of the four land types, existing mineral working sites are considered acceptable. Policy S3 of the North West Leicestershire Local Plan sets out the types of development that would be acceptable in the countryside, neither minerals nor waste developments are recognised. However, minerals can only be worked where they occur, and this proposed development would see the beneficial restoration of the mineral development and as set out above landfill is an accepted waste use in the countryside. Therefore, it is considered that the site accords with the requirements of Policies W4 and W5.

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Environmental Considerations

Air Quality

43. Potential sources of changes to the air quality of the area from the operation of the site are from extra HGV movements and the infilling and restoration operations through the creation of dust. The site is not in an air quality management area, the nearest is at Stephenson Way, Coalville, and there is nothing to suggest that air quality will diminish to unacceptable levels as a result of the extra vehicle movements this proposal would produce, particularly given that such movements are already occurring only some 1200 metres away at Ellistown Quarry. To mitigate the potential for dust escape from the site the applicant has put forward a set of measures that would reduce the likelihood of dust emissions, such as, use of a water bowser and sheeting of HGVs. These measures replicate those already in place at the site during mineral extraction. Representations received comment on the current state of the dust and air quality of the area but, firstly, the County Council has received one dust complaint in the last five years regarding the current activities and secondly, it is not possible to eliminate all dust emissions but to control them to a satisfactory level which it is considered these proposed measures would. However, the infilling of phase A would be close to properties on Pretoria Road and phases C and D to properties on Leicester Road and, therefore, a dust monitoring scheme should be put in place to ensure that the dust controls are effective. Subject to the addition of conditions requiring these elements the proposal is acceptable in terms of its effect on air quality and meets policies DM2 and D2.

Ecology

44. The area for the proposed infilling is already consented for the extraction of clay and thus, by the time infilling takes place the land will already have been cleared and worked. Therefore, there are no concerns that the infilling operations would affect local ecology. The only protected species found in the area were badgers and the extant consent for the mineral extraction (reference 2015/0262/07) requires surveys to be undertaken for badgers prior to soil stripping taking place. The proposed restoration would provide for a much greater mosaic and scale of habitats to be created than the current consent and, thus, in the long term should enhance the ecological value of the area.
45. On the basis of the above the proposal would ensure there is no net loss of habitat in terms of quality or quantity and would create biodiversity enhancements. Therefore, the proposal meets the requirements of Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity. Similarly, the requirements of the Habitats Directive and the Wildlife and Countryside Act 1981 have been met. On this basis the proposal is acceptable in terms of ecology and meets policies DM3, DM7 and En1.

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Hydrology/Flood Risk

46. The site lies within Flood Zone 1 which is land with less than a 1 in 1,000 annual probability of river flooding. Evidence has been provided that once infilling has been completed it is possible to control surface water runoff to greenfield rates. The Lead Local Flood Authority is satisfied with this but requires the details of the surface water drainage system to be installed to be submitted and proposes two conditions to request this information. Subject to these conditions the proposal is acceptable and accords with policies DM2 and Cc2.

Landscape

47. The existing boundary vegetation will not be affected by this proposal and its value as a screen to views in to the site is recognised. Indeed, it is difficult to achieve views of the site from many of the residential properties which adjoin the site. However, the application states that from the rights of way on the eastern side of the site views can be achieved but that the impact of infilling would be lessened because mineral extraction would have already taken place affecting the landscape. It should also be noted that as part of the mineral extraction provision is in place for top soils bunds to be formed along the eastern boundary of the site thereby reducing any potential for views to be achieved from the rights of way. Therefore, to ensure that this remains in place a condition should be attached to any planning permission to retain these bunds until such time as the infilling has ceased.
48. In terms of the long-term effect of this proposal, it is accepted that this restoration scheme would lead to a landscape of greater local value and would be more in-keeping with the local landscape than the currently consented scheme with the large water body. The restoration concept is acceptable in landscape terms but, subject to permission being granted, further details are required on the specific details of the species mix, the planting, management of the planted materials and the protection of existing trees and hedgerows. With these details required by condition the proposal is acceptable in landscape terms and accords with policies DM2 and DM5

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Noise

49. The submitted noise assessment assesses the impact of noise on the nearest noise sensitive receptors from the combined effects of landfilling and mineral extraction. The calculations show that these proposed operations, including soil placement, can take place alongside the current mineral extraction during the day without exceeding the noise limits set by condition 24 of consent 2015/0262/07. However, to ensure compliance an acoustic fence would be required to be installed in proximity to the eastern extent of the housing on Pretoria Road, Ibstock. The fence would be constructed of natural wood and be up to four metres in height. This is acceptable but in this area the topography is such that the Waste Planning Authority needs to ensure the fence is in such a location that it protects the amenity of those nearby residents and, therefore, a detailed plan should be required by condition showing the exact location of this fence (which cannot be achieved from the current larger scale plans that make up this application).
50. The hours that have been proposed for the operation of the proposed landfill are the same as those currently allowed for mineral extraction namely 07:00-19:00 hours Monday to Friday and 07:00-14:00 hours on Saturdays. There would be no working on Sundays or Public/Bank Holidays. These hours would be acceptable and ensure that there would be no additional operational hours at the quarry. Yet, to eliminate further the potential for any noise nuisance all HGVs, plant and machinery utilised in the infilling operations should be fitted with white noise reversing alarms rather than the standard reversing beepers. On this basis, the proposal is acceptable in terms of noise and accords with policies DM2 and D2 in this respect.

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Public Rights of Way

51. The current restoration scheme for the site contains for the provision of a new bridleway from Pretoria Road to Leicester Road along the western side of the site and a small permissive footpath link from the north western corner of this new bridleway westwards to Leicester Road. These new rights of way would create a circular bridleway route around the entire quarry site and provide a link to the south west to existing footpaths off of Leicester Road, Ibstock. The footpath link is outside of the area to which this application relates and would remain to be provided by Ibstock Brick under the extant ROMP consent. This current applicant has committed to providing the bridleway in the same location as that already consented, although about half of this is outside of the application boundary and will, as per the permissive footpath, remain to be provided by Ibstock Brick by 28th February 2061. Notwithstanding this, with the infilling of the site there is much greater potential for additional public access and it is considered that within the woodland and neutral grassland areas public access should be afforded and thus the detailed restoration scheme should provide for this.
52. The proposed haul road in to the infilling area is the existing haul road off of Whitehill Road, Ellistown. At around 800 metres off the highway the road crosses bridleway N61. Advice received by the Highway Authority is that signs are required where the bridleway interacts with the haul road to secure the protection of users of the bridleway and that a scheme for this can be requested through condition. Comment has been made on the use of speedbumps on the haul road either side of the bridleway crossing – this has not been requested by the Public Rights of Way team and, furthermore, it is considered that these have the propensity to increase noise disturbance as vehicles accelerate, decelerate and cross them particularly unladen HGVs. These negative effects outweigh any benefits that speedbumps may bring. Subject to such a condition the proposal is acceptable in terms of its public access and accords with policy DM10.

Restoration and Aftercare

53. This new restoration concept contains large areas of woodland planting (23.7 hectares) and neutral grassland (15 hectares). Three fields would be created for agricultural use, on the north/north-east and east/south-east of the site. There is also provision for new hedgerows and small water bodies within the restoration. The site is wholly within the boundary of the National Forest and thus the priority for the restoration is woodland; native broadleaved woodland is one of the priority habitats sought by the Leicestershire Biodiversity Action Plan and the development plan. The National Forest Company recognises the potential for the scheme to contribute towards the creation of The National Forest.

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54. Advice has been received seeking change to the shape of the proposed agricultural fields and the habitat creation to provide species rich grassland. Neutral grassland is also one of the priority habitats sought by the Leicestershire Biodiversity Action Plan and the development plan. The restoration plan contains large areas of neutral grassland that it is considered could be made species rich. Therefore, this change can be accommodated within the restoration details already required. As to the agricultural fields it is considered that the proposal is an acceptable balance between biodiversity and allowing the land owner to retain value in the land through agriculture and thus no changes are sought. It is important to note that the extant restoration scheme (with the large water body) also provides for agricultural uses but this proposal would significantly increase the scale and value of the biodiversity of the land. Therefore, it is considered that the scheme is acceptable but greater detail is still needed on the placement of soils and how this would facilitate habitat creation. It is considered that the removal of the large lake and the increased area of useable land that would result from this restoration scheme, alongside the mosaic of habitats and the commensurate biodiversity enhancements this could bring would result in a restoration that surmounts that previously consented.
55. Additional comment has been made on the five-year aftercare period following restoration of the site. The Government's Planning Practice Guidance on aftercare explains that the authority "*....cannot require any steps to be taken after the end of a 5 year aftercare period without the agreement of the minerals operator..*". The applicant has not agreed to a period greater than five years and the five-year period for aftercare accords with the development plan. This proposal meets the requirements of the development plan and the terms of policies DM3, DM6, DM12, En1, and En3.

Traffic

56. The existing access is used by Ibstock Brick to transport clay from Ibstock Quarry to Ellistown Brickworks. The site is well located to the County's HGV network and access can be made without going through Ellistown village. The applicant has estimated that 160 HGVs would access the site each day, 120 from this development and 40 HGVs already permitted to transport clay to Ellistown Brickworks. The Highway Authority considers the development to be acceptable and that the surrounding road network, and most importantly the Ellistown Terrace Road and Victoria Road junction, can accommodate the predicted HGV movements. The access was purpose built for HGVs and remains safe and acceptable for egress and ingress. Comments have been received about impact on the wider road network and the effects on road maintenance, however, the Highway Authority considers the effects acceptable and any impacts on the roads' condition normal. The applicant has put forward the intent to install a wheelwash (which is currently lacking) and this should ensure that the development does not lead to detritus going onto the highway; this would need to be installed in advance of infilling operations commencing. Subject to such a condition the proposal is acceptable in terms of its potential effects on the highway and accords with policies DM2, DM9, IF4 and IF7.

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Waste Management

57. This proposal is, in effect, a replacement for the existing infilling operations currently being undertaken at Ellistown Quarry (by the applicant). Demand for infilling of the Ellistown site with inert waste was provided and found acceptable in 2013 (reference 2013/0924/07) and there are no indications that this demand will decrease. The vast majority of the waste for this proposal would be sourced from greenfield developments and consists of soils and subsoils. North West Leicestershire District Council's extant Local Plan provides for continued greenfield developments to provide for the district's housing and employment needs from which this waste would arise. Policy W8 of the Minerals and Waste Local Plan accepts that there is a continued need for inert landfilling in the County and allocates Ibstock Quarry for inert waste disposal. Therefore, it is considered that there is a need for this development for wastes that cannot be managed in a more sustainable way.

58. The nearest similar facility (with the exception of Ellistown) to this proposal is at Lockington and it is not considered that this development would delay the restoration of this site – Lockington has been able to successfully restore sand & gravel extraction areas alongside Ellistown being operational. It is envisaged that the current infilling at Ellistown may be finished in around 12 months, but this will not complete the restoration of the quarry as the remainder of the clay still needs to be extracted. So, if this proposal was permitted works would transfer from Ellistown to Ibstock but Ellistown would still need completing. Notwithstanding that Ellistown and Ibstock Quarry infilling operations will be in the control of the same applicant there is a need to ensure that works do not move to Ibstock and remain there without completing the restoration of Ellistown (when capable of being restored). Thus, conditions should be put on any planning permission to ensure that the two sites do not operate at the same time and that works move back to Ellistown to complete the restoration of the site once all the clay has been extracted. The restoration of the site would secure landscape and biodiversity benefits. Therefore, it is considered that the proposal is acceptable and accords with policy W1, W8, DM11, and Box SA7.

Other Matters

59. The application addresses the matter of bird strikes, East Midlands Airport is some nine kilometres to the north of the site. The inert nature of the material to be used in the restoration of the quarry is not a type of material that attracts birds and the proposed restoration would not be of attraction to large bird numbers that would increase the risk of bird strikes. However, East Midlands Airport has advised that a condition be added to any planning permission to prohibit the creation of islands in the proposed water bodies to further reduce the attractiveness of the proposal to gulls and waterfowl. Subject to this condition the proposal would be acceptable and meets the terms of policy DM2. As to the potential for the use of the site by motorbikes, this does not form part of the application before the County Council and notwithstanding this, it is considered that this would not be a sympathetic land use with biodiversity and more leisurely public access aims.

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60. The application sets out that this proposal would employ 14 full time positions. It is envisaged that, in the main, these would be jobs moved from the infilling currently being undertaken at Ellistown, so, although not strictly new the protection of these existing jobs for another 40 years or so is a benefit of this proposal. Additionally, the release of this void space will ensure continuity of supply of landfill for soils and subsoils not required in greenfield construction activities in the local market place. These economic benefits should be given significant weight in this determination and this accords with the NPPF seeking the planning system to support economic growth. Finally, it is considered that all of the above would ensure that the development achieves the three dimensions of sustainable development and meets the terms of policy DM1.

Conclusion

61. This proposal is seeking, in effect, to amend the consented restoration scheme of Ibstock Quarry to create a landform which is closer to that which existed prior to mineral extraction. The proposal has been assessed against the development plan as well as national planning policies and guidance contained in NPPF and PPG and relevant statutory requirements and is considered to reflect the principles of sustainable waste development.
62. It is considered that with the imposition of appropriate planning conditions the proposed development would be acceptable. There have been no objections from statutory consultees. There are no substantive reasons to resist the proposal on grounds of the impacts on air quality, hydrology, landscape, noise, public rights of way or traffic.
63. Once operational the proposed development would facilitate the continued provision of inert landfill operations in north-west Leicestershire, securing local employment and serving local development needs. In the longer term (the proposal would extend the overall timescales of permitted site operations by six years), but the restored site would provide significant amounts of woodland, usable agricultural land, with enhanced biodiversity and public access features. Subject to appropriate conditions regarding this proposal and the infilling of Ellistown Quarry to ensure that this approval would not delay the restoration of that waste disposal site the development is acceptable and recommended for approval accordingly.

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Recommendation

- A. PERMIT subject to the conditions as set out in the Appendix.
- B. To endorse, as required by The Town and Country Planning (Development Management Procedure) Order 2015 (as amended), a summary of

How Leicestershire County Council has worked with the applicant in a positive and proactive manner:

In dealing with the application and reaching a decision account has been taken of paragraph 38 of the National Planning Policy Framework, which advises that planning authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area, by seeking to approve applications for sustainable development where possible.

Implementation

1. The development hereby permitted shall commence within three years of the date of this permission.
2. Written notification of the implementation of the development shall be provided to the Waste Planning Authority within seven days from the date of such implementation.

Scope of Permission

3. This permission relates to the infilling of the consented Ibstock Quarry (Leicester Quarry) with inert waste materials to achieve restoration levels for agricultural, grassland and woodland after-uses with supplementary water and conservation areas. This permission replaces the requirements of the following conditions of consent 2015/0262/07 dated 17th April 2015: condition 3, the restoration date contained in condition 4; and conditions 42-54 as they relate to land within the solid red line on drawing number IL Q/18/01 dated Mar 2019.

Duration

4. This permission shall be for a limited period expiring on 28th February 2067 when the development hereby permitted shall cease and any building (s) and works carried out under this permission removed and the land reinstated in accordance with the restoration details of condition 34 (thirty four).

Working Programme

5. Unless otherwise required by this permission the development shall be carried out in accordance with the following details:
 - a) the planning application and accompanying environmental statement; and
 - b) the accompanying drawings including drawing number IL Q/18/03 dated Mar 2019 and drawing number IL Q/18/04 dated Mar 2019.
6. The restoration of the site shall follow progressively from Phase A through to Phase D (South), inclusive, as shown on drawing number IL Q/18/03 dated Mar 2019.
7. Written notification of the commencement of infilling shall be provided to the Waste Planning Authority within seven days from the date of such commencement.
8. Inert waste materials only shall be imported to the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019).

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9. Within 12 months of the permanent cessation of mineral extraction at Ellistown Quarry as defined by a solid blue line on drawing number IL Q/18/01 dated Mar 2019 the infilling operations at Ibstock Quarry as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019 shall cease and not recommence until such time as the infilling and restoration at Ellistown Quarry has been completed.

Dust

10. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a dust action plan has been submitted to and approved by the Mineral Planning Authority. The scheme should include a programme for monitoring the dust emissions from the site and set a limit for those dust emissions. Once approved works shall take place in accordance with the approved scheme.
11. To minimise the raising of dust the following steps shall be taken:
 - i). Haulage roadways shall be maintained to ensure that, as far as practicable, they are free of potholes;
 - ii). Material drop height from vehicles shall be minimised;
 - iii). The speed of vehicles will be such that it minimises the raising of dust;
 - iv). All vehicles operating on site for the duration of the landfilling operations shall be fitted with upswept exhausts;
 - v). The use of water bowzers or other such means shall be used in the suppression of dust on the site and shall be utilised as necessary for the duration of landfilling, recycling and site restoration.

If, in the opinion of the Waste Planning Authority, operations give rise to substantiated complaints of dust leaving the site operations (including the tipping of inert waste) shall be temporarily suspended until such time as operations can be resumed without causing nuisance.

Ecology

12. No island features shall be added to the water bodies shown as 'Proposed Ponds' and 'Seasonal pond' on drawing number IL Q/18/04 dated Mar 2019.
13. No trees or hedgerows shall be removed as a result of this development.

Highways

14. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a scheme for the erection of signs at the crossing point of bridleway N61 and the proposed haul road has been submitted to and approved by the Waste Planning Authority. Such a scheme shall include a timetable for their installation.
15. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until wheelwash facilities (including wheelbath) have been installed and are capable of use.

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16. All HGVs exiting the site shall use, as necessary, the wheelwash facilities as set out in condition number 15 (fifteen) before entering the public highway to ensure that no mud or detritus is carried from the site onto the public highway. The wheelwash facilities shall be regularly maintained so that accumulated silt does not impair their effectiveness. In the event that any deleterious material is deposited within the public highway it shall be removed immediately.
17. All HGVs entering or leaving the site for the purposes of the infilling operations hereby permitted shall only do so via the existing access onto Ellistown Terrace Road within the solid red line shown on drawing number IL Q/18/01 dated Mar 2019.
18. The number of movements generated on to Ellistown Terrace Road by HGV traffic gaining access to and from the quarry via the clay haul road for the purposes of delivering clay to the Ellistown Brickworks shall not exceed 80 per day (i.e. 40 delivered loads to the Ellistown Brickworks per day).
19. The number of movements generated on to Ellistown Terrace Road by HGV traffic gaining access to and from the quarry via the clay haul road for the purposes of importing inert waste shall not exceed 240 per day (i.e. 120 delivered loads of inert waste to the quarry void per day).
20. All HGVs parked overnight shall be parked within the area marked as 'HGV parking area' on drawing number IL Q/18/03 dated Mar 2019.

Hydrology

21. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until details in relation to the management of surface water on site during construction of the development has been submitted to and approved in writing by the Waste Planning Authority.
22. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a surface water drainage scheme has been submitted to and approved in writing by the Waste Planning Authority.

Lights

23. All lights erected within the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) shall be shielded and pointed downwards. Any lights erected shall only be switched on during the permitted hours of operation.

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Noise

24. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a noise monitoring scheme has been submitted to and agreed by the Waste Planning Authority. Such a scheme shall set out the locations at which monitoring shall take place, the frequency of such monitoring and the times and days of the week of the monitoring, such noise monitoring shall take place to ensure it is representative of the full effects of noise from the development.
25. No infilling operations hereby permitted shall commence in the site (as denoted by a solid red line on drawing number IL Q/18/01 dated Mar 2019) unless and until a 1:250 plan showing the location of the proposed acoustic fence on the south western boundary has been submitted to and agreed by the Waste Planning Authority. The plan shall show the existing topography of the area.
26. Between the hours of 07:00 and 19:00 Monday to Friday and 07:00 and 14:00 Saturdays the free-field equivalent continuous noise level, LAeq, T noise levels arising from the continued development (with the exception of the temporary operations identified in condition number 27 (twenty seven)) when measured 3.5 metres from the most exposed external façade of a noise sensitive property shall not exceed the following levels at the locations specified:
 - 53 Pretoria Road - 53.1 dB (LAeq 1hr)
 - 193 Pretoria Road - 46.8 dB (LAeq 1hr)
 - The Villas - 50.2 dB (LAeq 1hr)
 - 151 Ibstock Road - 52.4 dB (LAeq 1hr)
 - Centre Bungalow, Clay Lane - 46.1 dB (LAeq 1hr)
 - 339 Whitehill Road – 55 dB (LAeq 1hr)
 - The Grange, Ellistown Terrace Road - 55 dB (LAeq 1hr).
 Measurements taken to verify compliance shall have regard to the effects of extraneous noise and where practical a correction shall be made for any such effects.
27. Noise levels arising from soil replacement, the construction and removal of soil and subsoil mounds, and site road construction (temporary operations) shall be minimised as far as is reasonably practicable and shall not exceed 70dB(A) LAeq 1 hour at 3.5 metres from the most exposed façade of any noise sensitive property. Temporary operations which exceed the normal day to day criterion set out in condition number 26 (twenty six) shall only be carried out between the hours of 0800 and 1800 Monday to Friday and the hours of 0800 and 1200 on Saturdays, and shall be limited to a total of 44 days in any 12-month period. Advance notice of the commencement of each temporary operation shall be given to the Mineral Planning Authority and its duration shall be recorded by the operator and made available upon request.
28. All machinery, plant and equipment fitted with a reversing alarm and working on the land as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019 shall be fitted with white noise audible reversing alarms.

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29. There shall be no maintenance of vehicles or machinery within the land as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019, with the exception of earthmoving / excavation machinery in the case of emergency.

Operating Hours

30. With the exception of emergency maintenance work all activities and operations hereby permitted shall only take place between the hours of 07:00 - 19:00 hours Monday to Friday (inclusive) and 07:00 –14:00 hours on Saturday. No activities or operations shall be carried out on Sundays or recognised Public Holidays.

Soils

31. Within 12 months of the commencement of infilling operations a soil management scheme shall be submitted to and approved in writing by the Waste Planning Authority. The scheme shall include details of the methodology for topsoil and subsoil placement and the final depths of topsoil and subsoil to be used to achieve the approved restoration. Works shall then be carried out in accordance with the approved scheme.
32. Plant or vehicles shall not cross areas of topsoil and subsoil except for the express purpose of soil replacement operations.
33. All soil stockpiles permitted by consent 2015/0262/07 dated 17th April 2015 and shown on Figures 4a, 4b, 4c, 4d, 4e and 4f, all dated NOV 14, shall be erected in accordance with these figures and hereby retained for the duration of the infilling operations.

Restoration and Aftercare

34. Within 12 months of the commencement of infilling operations a detailed landscape, restoration and aftercare scheme shall be submitted to and approved in writing by the Waste Planning Authority. Such a scheme shall include details of:
- a) proposed grass seed mixtures, fertilising, water draining or other treatment of the land including how the neutral grassland can be species rich; numbers, species, sizes and spacing of trees and shrubs to be planted;
 - b) the maintenance regime for tree and shrub planted areas; the location and type of fencing and gates;
 - c) the provision of footpaths open to the public through the neutral grassland, woodland zone A and woodland zone B as shown on drawing number IL Q/18/04 dated Mar 2019; and
 - d) timescales for carrying out the above works.
35. By 28th February 2061 the bridleway shown as 'Public rights of way – proposed' on drawing number IL Q/18/04 dated Mar 2019 shall be made open for use by the public on foot, on horseback and on pedal cycle. Once made open for use the bridleway shall remain available for the uses set out in this condition.

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36. By 28th February 2068 all permissive paths required and permitted by condition 34 (thirty four) shall be made open for use by the public on foot. Once made open for use such paths shall remain available for the use set out in this condition.
37. Prior to the infilling of inert waste in Ibstock Quarry (as defined by a solid red line on drawing number IL Q/18/01 dated Mar 2019) the infilled parts of phases 1, 2, 3, and 4 of Ellistown Quarry (as shown on drawing E1/03 revision b dated 27Jan 2014 and forming part of planning permission 2016/0332/07) shall be restored to their approved finished levels (as shown on drawing E1/17/NMA/04 dated 05/04/2017 and forming part of consent 2017/0522/07). Within nine months of the restoration required by this condition the restored areas shall be planted as per the approved restoration scheme for Ellistown Quarry.

Complaint Procedure

38. In the event of any complaint being received by the operator about the operations hereby permitted, the operator shall inform the Waste Planning Authority within 24 hours. If, in the opinion of the Waste Planning Authority, it is considered that a complaint warrants further investigation, a report shall be submitted to the Waste Planning Authority by the operator prior to further operations taking place. Where necessary, a scheme of mitigation measures shall be submitted to and approved by the Waste Planning Authority and subsequently implemented. The scheme of measures shall seek to mitigate the effects of the operation that gave rise to the original complaint.

Early Cessation

39. In the event of the cessation of winning and working of minerals (which would prejudice the achievement of final site restoration as approved by condition 34 (thirty four), which constitutes a permanent cessation within the terms of Paragraph 3 of Schedule 9 of the Town and Country Planning Act 1990, an alternative reclamation scheme shall be submitted in writing to the Waste Planning Authority for approval within 6 months of cessation. The scheme shall include the following details:
- a) the re-contouring of the area shown edged with a solid red line on drawing number IL Q/18/01 dated Mar 2019;
 - b) the removal of all buildings, plant and structures;
 - c) the re-spreading of all available soils;
 - d) the treatment of the land;
 - e) landscaping and planting; and
 - f) aftercare provision.

The approved reclamation scheme shall be implemented (excluding aftercare) within 2 years of the written approval of the Waste Planning Authority and immediately thereafter the land shall be put into aftercare in accordance with the approved details

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Reasons

1. To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. To enable the development to be monitored to ensure compliance with this permission.
3. For the avoidance of doubt.
4. To ensure that the site is reclaimed in a condition capable of beneficial afteruse in a timely manner and in the interests of amenity.
5. For the avoidance of doubt and to ensure that the development is carried out in a satisfactory manner.
6. To provide for the progressive restoration of the site in the interests of the amenity of the area.
7. To enable the development to be monitored to ensure compliance with this permission.
8. To ensure the development remains compatible with the surrounding land uses.
9. To provide for the timely restoration of Ellistown Quarry and to ensure that the two infilling operations do not operate at the same time to reduce the potential for cumulative impacts.
10. To minimise the adverse impact of dust generated by the operations on the local community and environment.
11. To minimise the adverse impact of dust generated by the operations on the local community and environment.
12. To prevent any increase in bird species that are hazardous to aircraft.
13. To retain the existing boundary vegetation in the interest of the biodiversity and visual amenity of the area.
14. In the interest of amenity, safety and security of users of bridleway N61.
15. To ensure that deleterious material is not carried onto the public highway in the interests of highway safety.
16. To ensure that deleterious material is not carried onto the public highway in the interests of highway safety
17. To ensure the site is accessed with due regard to highway safety and the local environment.

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18. To ensure the site is accessed with due regard to highway safety and the local environment.
19. To ensure the site is accessed with due regard to highway safety and the local environment.
20. To minimise the adverse impact of noise generated by the movement of HGVs on the local community and environment.
21. To prevent an increase in flood risk, maintain the existing surface water runoff quality, and to prevent damage to the final surface water management systems through the entire development construction phase.
22. To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site.
23. To minimise the adverse impact of light generated by the operations on the local community and environment.
24. To allow the Waste Planning Authority to monitor compliance with the permitted noise levels.
25. To ensure that the acoustic fence is in the best location to afford noise mitigation benefits.
26. To minimise the adverse impact of noise generated by the operations on the local community and environment.
27. To minimise the adverse impact of noise generated by the operations on the local community and environment.
28. To minimise the adverse impact of noise generated by the reversing of vehicles on the local community and environment.
29. To minimise the adverse impact of noise generated by the operations on the local community and environment.
30. To minimise the adverse impacts of the operations on the local community and environment.
31. To ensure the soil resource is protected and to ensure there is sufficient soil depth to achieve the restoration of the site.
32. To minimise structural damage and compaction of the soil and to aid the final restoration of the site.
33. To minimise the visual, noise and dust impacts of the operations on the local community and environment.
34. To ensure that the site is reclaimed to a beneficial afteruse at an early date and in the interests of amenity.

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- 35. To ensure the site can be accessed by members of the public.
- 36. To ensure the site can be accessed by members of the public.
- 37. To ensure that prior to infilling beginning at Ibstock the Ellistown site is left in a restored and satisfactory condition.
- 38. To ensure the site does not become a source of nuisance to those living and working in the area.
- 39. To ensure reclamation of the site in the event of the cessation of mineral working.

Note to applicant

Given the change to the operations at Ibstock Quarry the site shall be subject to a minimum of four paid monitoring visits in the first year of operation. After this period the Waste Planning Authority will review the situation to ascertain if the number of visits should be amended.

DEVELOPMENT CONTROL AND REGULATORY BOARD

The considerations set out below apply to all the following applications.

EQUAL OPPORTUNITIES IMPLICATIONS

Unless otherwise stated in the report there are no discernible equal opportunities implications.

IMPLICATIONS FOR DISABLED PERSONS

On all educational proposals the Director of Children and Young People's Service and the Director of Corporate Resources will be informed as follows:

Note to Applicant Department

Your attention is drawn to the provisions of the Chronically Sick and Disabled Person's Act 1970, the Design Note 18 "Access for the Disabled People to Educational Buildings" 1984 and to the Disability Discrimination Act 1995. You are advised to contact the County Council's Assistant Personnel Officer (Disabled People) if you require further advice on this aspect of the proposal.

COMMUNITY SAFETY IMPLICATIONS

Section 17 of the Crime and Disorder Act 1998 places a very broad duty on all local authorities 'to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all reasonably can to prevent, crime and disorder in its area'. Unless otherwise stated in the report, there are no discernible implications for crime reduction or community safety.

BACKGROUND PAPERS

Unless otherwise stated in the report the background papers used in the preparation of this report are available on the relevant planning application files.

SECTION 38(6) OF PLANNING AND COMPLUSORY PURCHASE ACT 2004

Members are reminded that Section 38(6) of the 2004 Act requires that:

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

Any relevant provisions of the development plan (i.e. any approved Local Plans) are identified in the individual reports.

The circumstances in which the Board is required to "have regard" to the development plan are given in the Town and Country Planning Act 1990:

Section 70(2)	:	determination of applications;
Section 77(4)	:	called-in applications (applying s. 70);
Section 79(4)	:	planning appeals (applying s. 70);
Section 81(3)	:	provisions relating to compensation directions by Secretary of State (this section is repealed by the Planning and Compensation Act 1991);
Section 91(2)	:	power to vary period in statutory condition requiring development to be begun;
Section 92(6)	:	power to vary applicable period for outline planning permission;
Section 97(2)	:	revocation or modification of planning permission;
Section 102(1)	:	discontinuance orders;
Section 172(1)	:	enforcement notices;
Section 177(2)	:	Secretary of State's power to grant planning permission on enforcement appeal;
Section 226(2)	:	compulsory acquisition of land for planning purposes;
Section 294(3)	:	special enforcement notices in relation to Crown land;
Sched. 9 para (1)	:	minerals discontinuance orders.